UNITED
NATIONS

CRC

Convention on the
Rights of the Child

Distr.
GENERAL

CRC/C/15/Add.89
24 June 1998

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

Eighteenth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Fiji

1. The Committee considered the initial report of Fiji (CRC/C/28/Add.7) at its 461st and 462nd meetings (see CRC/C/SR.461-462), held on 25 May 1998 and adopted* the following concluding observations:

A. Introduction

2. The Committee welcomes the submission of the State party's initial report, which followed the guidelines established by the Committee, and the written answers to the list of issues (CRC/C/Q/FIJ/1), which enabled the Committee to assess the situation of the rights of the child in the State party. The Committee also welcomes the frank, self-critical and cooperative dialogue with the State party's delegation.

B. Positive aspects

3. The Committee appreciates the recent establishment of several administrative, monitoring and protection mechanisms on children's rights in the State party such as the Coordinating Committee on Children (CCC), the Children's Unit within the Ministry of Health and Social Welfare, and the Child Abuse Unit within the Police Department.

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* At the 477th meeting, held on 5 June 1998.

4. The Committee notes with appreciation the participation of non-governmental organizations in the CCC and in the elaboration of the State party's report.

5. The Committee takes note of the 1997 amendment to the Juvenile Act regarding the prevention of child pornography.

C. Factors and difficulties impeding the implementation of the Convention

6. The Committee takes note of the particular nature of the State party, its geographical configuration comprising 330 islands, the relatively small population composed of a number of different and isolated communities, as well as the recent changes in the economic structure.

D. Principal subjects of concern

7. While noting the measures envisaged by the State party in the field of law reform, the Committee expresses its concern at the need to harmonize the legislation of the State party fully with the principles and provisions of the Convention. In this regard, it is also concerned at the slow pace in the process of enactment of the Children's and Young Persons' Act.

8. Although the Committee is aware of the existing coordinating and monitoring mechanisms, it is concerned about the lack of a systematic, comprehensive and disaggregated quantitative and qualitative data-collection mechanism for all areas covered by the Convention, especially addressing the most vulnerable groups of children, including those belonging to minority groups, children living in institutional care, girl children, and children living in rural areas.

9. The Committee is concerned about the lack of an independent complaint and monitoring mechanism for children, such as an Ombudsperson or a Commissioner for Children.

10. The Committee is concerned that despite the efforts undertaken by the State party in identifying priority areas for budgetary allocation of resources for the benefit of children, insufficient human and financial resources are allocated for the full implementation of the provisions of the Convention.

11. While recognizing the efforts of the State party to disseminate the Convention and to train professionals working for and with children in the provisions and principles of the Convention, as well as to translate the Convention into the Fijian and Hindi languages, the Committee is of the view that these measures are insufficient. The Committee remains concerned at the lack of adequate and systematic training for professional groups working with and for children.

12. The Committee is concerned about the fact that the State party does not appear to have fully taken into account the general principles contained in its articles 2 (non-discrimination), 3 (best interests of the child), 6 (right to life, survival and development) and 12 (respect for the views of the child) in its legislation, its administrative and judicial decisions, and in its policies and programmes relevant to children.

13. The Committee expresses its concern at the fact that the minimum age for marriage, set at 16 for girls and at 18 for boys, is discriminatory and contrary to the principles of the Convention.

14. With regard to the implementation of article 2, insufficient measures have been adopted to ensure the full enjoyment by all children of the rights recognized by the Convention, in particular in relation to access to education and health services. Of particular concern are certain vulnerable groups of children, especially the girl child, children with disabilities, children living in rural areas or in slums, and children born out of wedlock. In this regard, the Committee considers that the use of the term "illegitimate children" (ex-nuptial children) in the law is contrary to the principle of non-discrimination contained in article 2 of the Convention.

15. The Committee is concerned about the lack of conformity of the birth registration system with all the requirements of article 7 of the Convention.

16. While aware of the initiative presented by the CCC to Fiji's Law Reform Commission for the legal prohibition of the use of corporal punishment, the Committee remains concerned that corporal punishment is still used by parents and that internal school regulations do not contain explicit provisions prohibiting this harmful practice, in conformity with, inter alia, articles 3, 19 and 28 of the Convention.

17. The Committee is concerned at the insufficient awareness of and lack of information on ill-treatment and abuse, including sexual abuse, both within and outside the family, at the insufficient legal protection measures and appropriate resources, both financial and human, as well as at the lack of adequately trained personnel to prevent and combat such abuse.

18. Although the Committee is aware that the existing legislation on adoption is being re-examined, it is concerned that the current legislation does not reflect the principles and provisions of the Convention and does not effectively protect children against illicit transfer and non-return.

19. While the Committee acknowledges the State party's efforts to reduce the infant mortality rate and the under-five mortality rate, it is still concerned about the prevalence of malnutrition and high rates of maternal mortality, as well as the limited access to health services on remote islands.

20. While the Committee takes note of the efforts undertaken by the State party in the field of adolescent health, it is particularly concerned at the high and increasing rate of early pregnancies, the incidence of sexually transmitted diseases among the youth, the occurrence of teenage suicide, the insufficient access by teenagers to reproductive health education and counselling services, including outside schools, and the insufficient preventive measures on HIV/AIDS.

21. With regard to the situation of children with disabilities, the Committee expresses its concern at the insufficient measures taken by the State party to ensure effective access of these children to health, education and social services, and to facilitate their full inclusion into society. The Committee is also concerned about the small number of well-trained professionals working with and for children with disabilities.

22. While taking note that a compulsory primary education system was gradually established in 1997, the Committee is concerned about the fact that this system is not yet fully in place. The Committee also expresses its concern regarding the high drop-out rates as well as at the unequal access to quality education. It is further concerned about the absence of a public pre-school system in the State party.

23. The Committee is concerned about the existing low minimum age for access to work, set at 12 years. The Committee is concerned about the lack of data on child labour and economic exploitation, including sexual exploitation of children.

24. The Committee is concerned about the insufficient measures to address issues of drug and alcohol abuse which are increasingly affecting children in the State party.

25. The Committee expresses its concern at the insufficient rehabilitation measures for ill-treated, sexually abused and economically exploited children as well as their limited access to the justice system.

26. While the Committee takes note that the administration of juvenile justice is regulated by the Juvenile Act, it is concerned about the full compatibility of this legislation with articles 37, 40 and 39 of the Convention as well as other relevant standards such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. In particular, the Committee is concerned at the lack of legal counselling for children in care centres, that detention is not being used as a measure of last resort, and about the poor state of detention centres. With regard to the minimum age for criminal responsibility, though the Committee is aware that juvenile offenders aged 10 to 17 enjoy a special judicial procedure, it is especially concerned about the low minimum age for criminal responsibility, set at 10 years. The fact that children aged between 17 and 18 years are not considered under the juvenile justice system is also a matter of concern.

E. Suggestions and recommendations

27. The Committee encourages the State party to take all necessary measures to accelerate the process for the enactment of the Children's and Young Persons' Act as well as other legislation related to children's rights. The Committee also recommends that the State party ensure that its domestic legislation fully conforms with the provisions and the principles of the Convention. The Committee further recommends that the principles and provisions of the Convention be taken into account in the Constitutional Amendment Bill (1997). In this regard, it also recommends that a specific reference to the Convention on the Rights of the Child be envisaged.

28. The Committee recommends that the State party envisage ratifying all other major international human rights treaties, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which all have an impact on the rights of the child.

29. The Committee recommends that the State party strengthen its coordination efforts through the Coordinating Committee on Children. It also recommends that the State party develop a comprehensive system of collecting disaggregated data, in order to gather all necessary information on the situation of children in the various areas covered by the Convention, including children belonging to vulnerable groups. The Committee encourages the State party to seek to this effect international cooperation from, inter alia, UNICEF.

30. The Committee encourages the State party to give further consideration to the establishment of an Ombudsperson for Children or any equivalent independent complaint and monitoring mechanism.

31. The Committee encourages the State party to pay particular attention to the full implementation of article 4 of the Convention and to ensure the appropriate distribution of resources at the local and central levels. Budget allocations for the implementation of economic, social and cultural rights should be ensured to the maximum extent of available resources and, where needed, within the framework of international cooperation, as well as in the light of the principles of non-discrimination and the best interests of the child (arts. 2 and 3 of the Convention).

32. The Committee recommends that the State party harmonize the minimum age for marriage with the principles and provisions of the Convention.

33. It is the Committee's view that further efforts must be undertaken to ensure that the general principles of the Convention (arts. 2, 3, 6 and 12) not only guide policy discussions and decision-making, but are also appropriately reflected in any judicial and administrative proceedings and in the development and implementation of all projects, programmes and services which have an impact on children. The Committee wishes to encourage the State party to further develop a systematic approach to increasing public awareness of the right to participation of children in the light of article 12 of the Convention.

34. The Committee recommends that a more active approach be taken to eliminate discrimination against certain groups, in particular the girl child, children with disabilities, children in institutional care, children living in rural areas, poor children such as those living in slums, and children born out of wedlock (ex-nuptial children).

35. The Committee recommends that the State party take all appropriate measures to improve its birth registration system in light of article 7 of the Convention. The Committee also recommends that the State party launch awareness-raising campaigns regarding the parents' duty to register newborn children.

36. The Committee recommends that corporal punishment be comprehensively prohibited by law and that measures be taken to raise awareness on the negative effects of corporal punishment and to ensure that discipline in schools, families and institutional care is administrated in a manner consistent with the child's dignity, in light of article 28 of the Convention.

37. In light of article 19 of the Convention, the Committee further recommends that the State party take all appropriate measures, including

revision of legislation, to prevent and combat ill-treatment within the family, including domestic violence and sexual abuse of children. It suggests, inter alia, that the authorities set up social programmes to prevent all types of child abuse as well as to rehabilitate the child victims. Law enforcement should be strengthened with respect to such crimes; adequate procedures and mechanisms to deal with complaints of child abuse should be developed, such as special rules of evidence and special investigators or community focal points.

38. In light of, inter alia, articles 3, 10 and 21 of the Convention, the Committee encourages the State party to accelerate the process of reform of its legislation relating to adoption and to illicit transfer and non-return. The Committee suggests that the State party envisage acceding to the Hague Convention of 1993 on Protection of Children and Cooperation in Respect of Intercountry Adoption.

39. The Committee recommends that the State party promote adolescent health policies and the strengthening of reproductive health education and counselling services. The Committee further suggests that a comprehensive and multidisciplinary study be undertaken to understand the scope of adolescent health problems, especially early pregnancies. The Committee also recommends that further efforts, both financial and human, be undertaken to develop child-friendly care and rehabilitation facilities for adolescents and their families.

40. In light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96), the Committee recommends that the State party develop early identification programmes to prevent disabilities, implement alternatives to the institutionalization of disabled children, envisage awareness-raising campaigns to reduce discrimination against disabled children, establish special education programmes and centres for disabled children and encourage their inclusion into society. The Committee further recommends that the State party seek technical cooperation for the training of professional staff working with and for children with disabilities. International cooperation from, inter alia, UNICEF and the World Health Organization can be sought to this effect.

41. The Committee recommends that the State party undertake all appropriate measures to accelerate the full implementation of the compulsory education system and to improve the access to education of the most vulnerable groups of children.

42. The Committee recommends that further measures, including legal reform, be taken to fully implement the provisions of article 32 of the Convention and other related international instruments. The Committee encourages the State party to consider acceding to ILO Convention No. 138 regarding minimum age for access to work. Furthermore, efforts should be undertaken to prevent and combat economic exploitation, or any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development. Particular attention should be paid to the conditions of children working within their families, in order to protect them fully. The Committee recommends that the State party envisage seeking technical cooperation from, inter alia, UNICEF and the ILO in this area.

43. The Committee recommends that the State party strengthen its efforts to prevent and combat drug and substance abuse among children, and take all appropriate measures including public information campaigns in and outside the schools. It also encourages the State party to support rehabilitation programmes for child victims of drug and substance abuse. In this regard, the Committee encourages the State party to consider seeking technical assistance from, inter alia, UNICEF and WHO.

44. The Committee recommends that further measures, including legal reform, be taken to fully implement the provisions of article 34 of the Convention, to prevent and combat sexual economic exploitation of children, including the use of children in prostitution and pornography and the trafficking and abduction of children.

45. In light of article 39 of the Convention, the Committee recommends that the State party undertake further efforts to establish rehabilitation centres for child victims of ill-treatment, sexual abuse and economic exploitation.

46. With regard to the administration of juvenile justice, the Committee recommends that the State party take all measures to fully integrate the provisions of the Convention, in particular articles 37, 40 and 39, as well as other relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, in its legislation, its laws, its policies, programmes and practices. In particular, the Committee recommends that it review the provision governing legal counselling for children in care centres in conflict with the law, that detention be used only as a measure of last resort, and that conditions in detention centres be improved. The Committee strongly recommends that the State party raise the minimum age for criminal responsibility and raise to 18 years the age of persons considered under the juvenile justice system. Furthermore, the Committee recommends that the State party consider seeking international assistance from, inter alia, the Office of the United Nations High Commissioner for Human Rights, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the Coordination Panel on Technical Advice and Assistance in Juvenile Justice.

47. Finally, in the light of article 44, paragraph 6, of the Convention, the Committee recommends that the initial report and written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and the concluding observations adopted thereon by the Committee. Such a wide distribution should generate debate and awareness of the Convention and of its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations.